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TOWN OF ANDOVER, MASS

DECISION OF THE ANDOVER PLANNING BOARD
AS A SPECIAL PERMIT GRANTING AUTHORITY

ON THE APPLICATION FOR

27-45 Main Street, Andover, MA

For a Special Permit for Planned Development – Mixed Use under Section 7.2. of the Zoning By-Law.

Decision: SP17-04

YES (with conditions)

A public meeting of the Planning Board was held on September 26, 2017 in the Third Floor Conference Room of the Town Office Building, Bartlet Street, Andover, MA. Present and voting on this matter were Joan Duff, Vincent Chiozzi, Austin Simko, Ann Knowles and Zachary Bergeron.

Pursuant to public notice in the Andover Townsman, a newspaper of general circulation in the Town of Andover, published on August 3, 2017, and August 10, 2017, and pursuant to notice sent by mail, postage prepaid, to all interested parties under the provisions of Massachusetts General Laws Chapter 40A, a public hearing was convened on **August 22**, 2017 on an application filed on **July 25**, 2017 by Attorney Robert Lavoie, of Johnson and Bornstein, LLC, on behalf of Touchdown, LLC, for a Special Permit for Planned Development – Mixed Use for development/conversion of an existing structure at 27-45 Main Street, identified as Lot 93 and Lot 92 on Assessor's Map 55.

Following an initial presentation and discussion on August 22, 2017, the hearing and review were continued through a subsequent session conducted on September 12, 2017, and September 26, 2017 when the hearing was closed.

Representatives from Touchdown, LLC, hereinafter referred to as the developer, and their consultants presented the proposed project to the Board and to the citizens in attendance at the hearing. The project is more fully depicted on the plans hereinafter referenced.

CONSIDERATIONS AND FINDINGS OF THE BOARD

In considering the issuance of a special permit under the Andover Zoning By-Law, the Planning Board, acting as Special Permit Granting Authority, is required to render a decision and make certain findings pursuant to Section 9.4. of the By-Law. The decision of the Board must also be based upon the specific standards described in the section of the By-Law which are applicable to the type of permit being sought; in this instance those found under Section 7.2., as well as any appurtenant or relevant subsections. In the opinion of the Board the application complies with the specific standards for development in the General Business Zoning District. The Board finds that the project is in compliance with the applicable standards of the Zoning By-Law. The Board must also find that the proposed use covered under the Special Permit will not be unreasonably detrimental to the established or future character of the neighborhood and Town, and that the project is in harmony with the general purpose and intent of the By-Law. In making those findings the Board is to give due consideration to the following:

Special Permit Criteria

According to Section 7.2.8. of the Andover Zoning Bylaw, the proposed project must meet the following criteria:

1. That the design standards and review criteria in this section have been met.

The Design Standards include Access, Parking, Landscaping, Screening, Lighting, Disposal Area, and Utilities.

To date the applicant has the approval for these criteria by the Design Review Board and the Board of Health. No significant comments were raised by the Department of Municipal Services at the IDR relating to the current proposal.

2. The provisions for parking and vehicular circulation on the site and access onto adjacent roadways will promote safe traffic control and flow.

As part of the applicant's submission a detailed analysis describing the parking demand for the site was discussed. The project includes public pedestrian access improvements between the site and the Bank of America building that is also owned by Mr. Thomas Belhumeur. Pursuant to the Section 5.1.12.3. of the Zoning By-Law, said improvements would qualify for a 15% reduction in required off-street parking, thus reducing the required parking by 10 spaces. The applicant has also made arrangements with TD Bank, adjacent to the site to utilize 24 off-street parking spaces located at the top of the parking lot during the hours of when they are closed.

With nearly 323 public parking spaces in the municipal lots proximate to the site, combined with well over 200 on-street spaces within the five minute walking shed, combined with the available 41 private parking spaces, in the opinion of staff the project would have sufficient

parking to accommodate this mixed use project. The applicant has sufficiently demonstrated that the parking needs for this project are such that a lower total of on-site parking will adequately serve all uses.

3. The provision for landscaping and screening will provide an adequate buffer for adjoining properties and will minimize the impact of the proposed uses and parking areas, and the effect of the bulk and height of buildings and structures.

The applicant is not proposing to make any changes that require construction to the parking lot at this time. However, areas surrounding the building and parking lot will be enhanced with other features such as new large planters and improved plantings in existing areas.

4. Any provision for pedestrian ways will provide safe and convenient access on-site with linkage to adjacent pedestrian areas.

The project includes creating new public pedestrian access between the site and the adjacent Bank of America building. The applicant will also implement pedestrian improvements along Main Street, by changing the grade differential along the frontage of their building, thus providing for superior accessibility for all patrons.

5. The project will provide for adequate drainage, water and sewer facilities with sufficient capacity to serve the planned development.

Adequate water and sewer facilities presently exist on site. No other changes are to be made at this time.

6. The intersections and roadways likely to be affected by the proposal are of sufficient capacity and design to accommodate the planned development.

Whereas the present site has been operating as a retail/office property dating back decades, the adjacent roadways have sufficient capacity and are adequate to accommodate the renovation of 27-45 Main Street, as contemplated by the applicant.

According to Section 9.4.2. Special Permits in General must meet five additional criteria. Some of which are duplicative of Section 7.2.8.

1. Social, economic, or community needs which are served by the proposal.

The development/conversion of 27-45 Main Street provides for new social, economic and community needs and is consistent with the goals of the 2012 Master Plan, specifically:

Housing goals H-1.1 – H1.5.: Twelve new rental housing units, ranging in size from (864 s.f. to 1,457 s.f.) are needed in Andover. The project presents an opportunity for adaptive reuse of an existing building, while offering refurbished housing units under 2,200 s.f. in downtown, with two new affordable units being created. The units are located within 2,000 feet of the commuter rail which provides for transit oriented housing.

Economic goals ED 1.2, 1.4, 2.2: The project presents a unique opportunity to bring new life to an aged facility, by redeveloping and preserving 47,518 s.f. of mixed used space in

downtown. By redeveloping the existing building the applicant is reinforcing the Town's character and enhancing the overall economic environment in downtown.

2. Traffic flow and safety, including parking and loading.

With nearly 323 public parking spaces in the municipal lots proximate to the site, combined with well over 200 on-street spaces within the five minute walking shed, combined with the available 41 private parking spaces, the project would have sufficient parking to accommodate this mixed use project. The applicant has demonstrated that the parking needs for this project differ from the previous commercial use and are such that a lower total of on-site parking will adequately serve all uses. To increase the number of weekend and overnight parking spaces, the applicant has an agreement with TD Bank to utilize an additional 24 parking spaces.

3. Adequacy of utilities and other public services.

As confirmed by the Board of Health and the Department of Public Works, the utilities and services are adequate to service the existing facility. The applicant has applied for a sewer permit and will provide the necessary grease trap and any other infrastructure needed to provide a restaurant and housing on the site.

4. Neighborhood character and social structures.

The site is located in the General Business District, with a Planned Development – Mixed Use project being consistent with the Table of Uses Regulations, Section 3.1.3. Table 1, D.2. of the Andover Zoning By-Law. In staff's opinion, the proposed mixed use project is appropriate for this downtown location.

5. Impacts on the natural environment, including, but not limited to air, water pollution, noise, stormwater runoff, and aesthetics.

The existing parking lot will remain as-is. There does not seem to be a current issue with excessive storm water from the site. The proposed exterior design of building has been reviewed and approved by the Design Review Board.

In consideration of all of the foregoing, including the plans, reports, and testimony at the hearings, the Planning Board finds that with appropriate conditions the proposal will not be unreasonably detrimental to the neighborhood and the Town, and that the proposal will not derogate from the general purpose and intent of the By-Law. It is the expressed intent of the Board through this permit and through the conditions attached thereto, to provide for the orderly development of the site.

CONDITIONS OF THE PERMIT

1. For purposes of this approval, the “developer” is currently identified as Touchdown, LLC, applicant for 27-45 Main Street, more specifically shown as Lot 92 and 93 on Assessor’s Map 55. The term “developer” shall also include any future sale, lease, and transfer of the project to a successor in interest. Any successor(s) in interest shall be bound by, and subject to, all applicable conditions stated below. The developer as defined, is responsible for construction of the project, including all contractors, subcontractors, vendors, or other parties working on the site. The developer is responsible for making sure that all contractors, subcontractors, vendors, or other parties working on the site are aware of the conditions;
2. All construction activities shall be in conformance with and strictly follow these conditions and the following plans:
 - a. Sheet 1 of 1, Existing Conditions Plan, dated September 26, 2014, as prepared by MHF Design Consultants, Inc.
 - b. Sheet 1 of 1, Site Improvement Plan, dated August 17, 2017, as prepared by MHF Design Consultants, Inc.
 - c. Sheet A3.0, A3.1 and A3.2 Exterior Elevations Plan, dated September 25, 2017, as prepared by Collin Smith Architecture, Inc.

Any amendments or revisions to the foregoing plans, in whatever form or extent, including architectural design or material changes, shall be submitted to the Planning Division for consideration as to whether they constitute major or minor amendments;

3. Except to the extent it is amended by this Special Permit, all previous zoning relief on record for the Property as of the date of this Special Permit shall remain in full force and effect;
4. Prior to demolition or construction activities of any kind, the developer shall inform the Inspector of Buildings, the Planning Division, the Department of Public Works (DPW), the Police Department and the Fire Department, of the project schedule;
5. Demolition activities and removal of debris shall be in accordance with a schedule approved by the Inspector of Buildings, and such schedule shall provide for the hours during which demolition and/or hauling operations may be conducted, and shall provide for designation of a hauling route for trucks. The demolition contractor shall notify the police during demolition. All loaded trucks shall be appropriately covered, and all public streets shall be kept free and clear from any debris, stones, gravel, or other earth materials associated with the project;
6. Construction activities (including start-up and operation of equipment, transport of materials and erection of structures) shall be conducted between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday. Saturday activities may be permitted upon written request to, and approval from, the Inspector of Buildings, however, such Saturday activities may be approved subject to restricted hours, and such approval may be revoked if any terms or

conditions of the approval are violated and/or if complaints are received from abutters. Work inside a structure once enclosed (walls, roof, windows, and doors) is not subject to this condition. All construction activities shall be conducted in a workmanlike manner;

7. Construction equipment, building materials, debris, and contractor's vehicles associated with the project shall not be stored or parked on Main Street. All such equipment and materials shall be stored or parked on the site in such manner and location as to not create a hazard or visual blight to abutting properties, and shall be secured against unauthorized entry. All activities on the site shall be conducted in a workmanlike manner. Construction debris and litter shall be collected and stored in appropriate containers on the site and shall be removed as promptly and regularly as possible. Appropriate measures (or those directed by the Inspector of Buildings) shall be taken on the site so as to protect adjacent properties and ensure the safety of pedestrian and vehicular traffic during construction;
8. Burning or burial on the site of demolition debris or construction debris of any kind is strictly prohibited. All such debris shall be promptly removed from the site, or shall be stockpiled on the site in an appropriate location and covered until removed;
9. Pursuant to Section 7.2.4 of the Zoning By-Law, the project shall provide 15% of the units as affordable, rounded to the nearest whole number. Currently, twelve units are proposed which would require 2 affordable units. If the number of units decreases, the Planning Division will calculate then number of affordable units required. Affordability of said unit shall be in perpetuity, or if such restriction cannot be legally provided, then said units shall be kept affordable for a period of not less than ninety-nine (99) years, and said period in either event shall be referenced in all applicable documents associated with the project.
 - a. The affordable units shall be rented to persons earning not more than eighty (80%) percent of the Area Median Income as established by the U.S. Department of Housing and Urban Development. For rental units, there shall be a rental regulatory agreement that is approved by the Massachusetts Department of Housing and Community Development (DHCD).
 - b. The applicant will prepare the Local Initiative Program (LIP) application. Affordability shall also be governed by the final LIP application prepared by the applicant for the Town's submittal to DHCD.
 - c. The LIP may be subject to any amendments promulgated by DHCD, and income amounts may be adjusted to reflect current requirements. The applicant shall submit any such adjustments to the Board or its designated agent for review and approval.
 - d. It is intended that the affordable units in the project count towards the Town's statutory ten percent (10%) affordable housing count established by DHCD. Prior to occupancy of any of the twelve (12) new multifamily dwellings at the property, the applicant shall provide the Board or its designated agent with a copy of the completed LIP Application to be submitted by the Town to DHCD.
 - e. If at any time, the affordable units in the project are to be sold, the applicant shall submit to the Planning Division the proposed form of Deed Rider to be attached to and recorded with the deed for such affordable unit, and such Deed Rider shall be applicable to the sale and resale of the affordable unit.

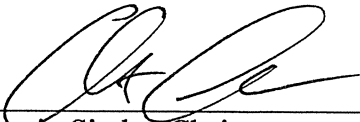
10. Prior to the sale of any multifamily dwelling unit in the project, the applicant shall have submitted to the Planning Division all documents associated with a condominium trust or homeowners' association, including the master deed, condominium bylaws any project management program, and any deed riders (Condominium Documents), for the purpose of their review and approval by Town Counsel with respect to form, and for compliance with any applicable conditions of this special permit. The final, approved Condominium Documents shall be recorded in the Registry of Deeds prior to the sale of any multifamily dwelling unit in the project;
11. In addition to the multifamily dwelling units, the project may include non-residential uses, including, without limitation: business-professional-administrative office; fast-food/bakery, non-exempt education; personal services establishments; retail sales; and sit-down restaurants.
12. The mix of uses in the project that total up to 47,518 square feet in gross floor area may change from time to time without the need for an amendment to this particular special permit; provided, however, that any mix of residential and non-residential uses in the project that generates a peak demand for on-site shared parking in excess of eighty nine (89) spaces, shall require an amendment of this special permit;
13. Prior to the recording of this permit at the Essex North Registry of Deeds the developer shall provide at least four (4) sets of the plans and drawings described under Condition 2 above to the Planning Department for distribution;
14. The applicant shall adhere to the design of the building and the materials specified as depicted in the memorandum submitted by the Design Review Board on September 22, 2017 with minor changes allowed as long as the changes are consistent with the original intent.
15. Prior to the recording of the Special Permit, the applicant shall provide to the Planning Department a digital file containing the plan if produced using computer aided drafting and design (CADD) software. The file format shall be in AutoCAD DWG (or ASCII DXF) version 2004 or earlier and Adobe PDF, delivered on CD-ROM or DVD-R media AutoCAD file delivery shall be in full model view and individual sheet views. The digital file shall include property boundaries, dimensions, easements, and rights-of-way, edge of pavement, edge of sidewalk, edge of water bodies, wetland boundaries, and topographic contours, spot elevations, parking areas, road centerline and associated text. Said digital data shall be delivered in the Massachusetts Coordinate System, North American Datum 1983 and North American Vertical Datum 1988, in U.S. Survey Feet. A review of the digital file shall be made by the Department of Public Works prior to the recording of the Special Permit;
16. Prior to the issuance of Occupancy Permits, the applicant shall submit to the Planning Department digital files of as-built utility plans and approximate building location, following the format described above;
17. Prior to the issuance of Occupancy Permits, the Board of Health and the Department of Municipal Services shall be satisfied with any utility improvements required;

18. This Special Permit is subject to Section 9.4.7. of the Andover Zoning By-Law, Special Permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within twenty-four months following the filing of the special permit approval (plus such required to pursue or await the determination of an appeal referred to in G. L. c. 40A, s 17, from the grant thereof) with the Town Clerk;
19. Following final lease up of the project or 18 months from the final approval of the Planning Board (whichever comes first), the developer shall provide the Planning Division with a status report on parking. Said status report shall include the number of available on-site parking spaces, leased/rented parking spaces, along with a summary of the short term parking demand depicted by hour, day and peak demand. Should the Inspector of Building receive complaints regarding the parking on site, the Inspector may at his discretion require the applicant to come back to the Board for review of the parking.

The Planning Board deliberated on the application during the public meeting on September 26, 2017 and subsequently voted (5-0) to issue the foregoing Special Permit with Conditions.

THE ANDOVER PLANNING BOARD

Date: 10/9/2017


Austin Simko, Chairman

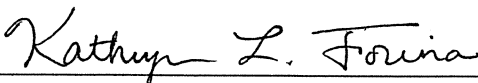
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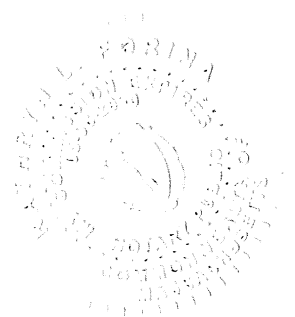
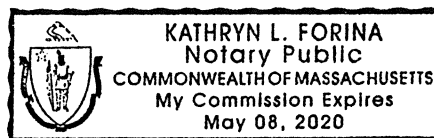
Date:

On this 9th day of October, 2017 by Austin Simko the authorized agent of the Andover Planning Board, proved to me through satisfactory evidence, to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the documents are truthful and accurate to the best of her knowledge and belief and who acknowledged to me that she signed it voluntarily for its stated purpose and acknowledged the foregoing to be the free act and deed of the Andover Planning Board.

Before me,


Kathryn L. Forina, Notary Public

My Commission Expires: May 8, 2020



CERTIFICATION

I, Laurence J. Murphy, Town Clerk of the Town of Andover, Massachusetts, do hereby certify that twenty (20) days have elapsed since this decision of the Andover Planning Board was filed in the Office of the Town Clerk on Oct. 14, 2017 and no appeal has been filed with the Town Clerk.

Date: 11-2-2017



Town Clerk